

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD ALVARADO, et al.,

No. C 04-0098 SI

Plaintiffs,

**ORDER GRANTING DEFENDANT'S
MOTION TO STRIKE WRITS OF
EXECUTION**

v.

FEDERAL EXPRESS CORPORATION,

Defendant.

Defendant has filed a motion to strike two writs of execution served by plaintiffs on Bank of America on April 18, 2008. Nearly a year ago, the Court issued orders staying execution of the Alvarado and Boswell judgments pending the disposition of post-trial orders and appeals, and requiring defendant to post a bond.¹ Defendant posted bonds on March 15, 2007 and June 7, 2007. After the resolution of a number of post-trial orders, on April 16, 2008, defendant filed notices of appeal regarding both Alvarado and Boswell.


The Court GRANTS defendant's motion and STRIKES the writs of execution. (Docket No. 1073). Plaintiffs are ordered to immediately return the writs of execution to the Clerk of Court for safekeeping pending resolution of this matter as described below. Plaintiffs suggest that the Court's earlier orders staying the execution of the judgments are no longer in force because they were issued pursuant to Federal Rule of Civil Procedure 62(b), which relates to a stay of execution of a judgment pending resolution of post-trial motions. Plaintiffs assert that defendant is required to file new motions to stay the execution of the judgments pursuant to Federal Rule of Civil Procedure 62(d).

¹ The order regarding plaintiff Alvarado references "appeals," while the order regarding plaintiff Boswell does not.

1 The Court finds that the appropriate course is to preserve the status quo staying execution of the
2 judgments to allow full briefing on a Rule 62(d) motion. Defendant shall file such a motion no later
3 than **May 1, 2008**, plaintiffs shall file an opposition by **May 9, 2008**, and defendant may file a reply,
4 if any, by **May 14, 2008**. At that time, the Court will take the matter under submission and will issue
5 an order shortly.

6
7 **IT IS SO ORDERED.**

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9 Dated: April 22, 2008



SUSAN ILLSTON
United States District Judge